

REMARKS

In response to the Restriction requirement raised in paragraphs 1-4 of the office action, applicant has elected without traverse to prosecute claims 1-10 and 16-18. Thus, as shown in the amendment section, claims 11-15 have been withdrawn from further consideration.

In response to the Examiner's objection to the specification raised in paragraph 5 of the office action, the examiner's reasons for objection have been addressed as shown in the amendment section. Thus, the Examiner's objections to specification have been corrected.

In response to the Examiner's objections to the drawings raised in paragraphs 6-8 of the office action, Figures 1, 2 and 6 have been replaced in accordance with the examiner's comments. "30" and "36" have been removed from Figure 1. "30" has been removed from Figure 2. In Figure 2 the line extending from "14" has been changed to properly identify the upper end of vertical element 19. In Figure 6 "14" and "19" have been reversed. Thus, the Examiner's requirements for the drawings have been complied with.

In response to the Examiner's objections to claims 4, 5, 9, 10, 15 and 18 raised in paragraph 8, the Applicant has addressed the Examiner's reasons for objection. In claims

4, 5 and 10 the words "non-marring" were added to describe the original word "surface". In claim 9, the original words "vertical member" were removed and the words "generally vertical element" were added to satisfy antecedent basis. Claim 15 was withdrawn without traverse pursuant to the examiner's restriction requirement. Claims 17 and 18 have been cancelled.

Based upon the Amendment to the Claims set forth herein, Applicant respectfully requests reconsideration of the rejection of the Claims under 35 U.S.C. § 103, as being obvious over *Bodymasters*, in view of *Petrone* '619 and *Perform Better*.

Independent claims 1 and 16 have been amended to include the limitation of at least one means for attachment, each means for attachment having an elongated attachment member located in a complementary void in said base portion, and further require that the limitation of the vertical element 19, interior end 18 and cut-out 20 as shown in Figures 3 through 5. The Examiner only mentions this limitation in the discussion of prior art reference *Bodymasters*, and states that a means for attachment can be seen for each saddle comprising an elongated attachment member located in a complementary void in the base portion to securely engage a complementary hole in the frame. In the material provided to applicant, *Bodymasters* contains only photographs without any detailed description or illustration of particular structure. These photographs do not present any form of means for attachment. These photographs especially lack an elongated attachment member located in a complementary void in the base portion, and

any structure relating to that claimed for the vertical wall and components as disclosed in figures 3 through 5.

Obviousness cannot be predicated on what is unknown. In re Spormann, 363 F.2d 444 (C.C.P.A. 1966). The prior art reference must describe and enable the claimed invention with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention. Elan Pharms, Inc. v. Mayo Found. For Med. Educ. & Research, 304 F.3d 1221 (Fed. Cir. 2002).

The *Bodymasters* reference does not address the problems that Applicant was concerned with, and does not render obvious the applicant's claimed invention. The photograph provided does not clarify to the applicant with any detail that an elongated attachment member is used, and further has no interior wall nor the specific structure as claimed.

The secondary references of record do not remedy the deficiencies of *Bodymasters*. The references also do not disclose in any fashion the limitations of at least one means for attachment, each means for attachment having an elongated attachment member located in a complementary void in said base portion, and further require that the limitation of the vertical element 19, interior end 18 and cut-out 20 as shown in Figures 3 through 5. There also is no teaching, suggestion or motivation to combine these particular references. Petrone '619 is generally an upstanding unit with vertically adjusting central support strut with an attachment for metal trays of a conventional design as shown in figures 1 which rotate upwardly. There is no correlation to Applicants designs for

particular saddle pairs with interior walls which support the dumbbell handles (the dumbbell handle in the '619 reference lays in a totally opposite orientation, in between and parallel to the tray ends).

Finally, there is no discussion or details of the non-marring surfaces or methods of applying, especially with Applicants claimed structure.

Dependent claims 3-5 and 7-10 depend from independent claim 1. As described above, currently amended independent Claims 1 and 16 are not obvious and traverses the Examiner's objections. Consequently, claims 3-5 and 7-10 merely add further limitations to the independent Claims.

Based upon the Claims of record as Amended, and the Remarks set forth herein, Applicant submits the instant case is in condition for allowance and respectfully requests action to that end.

Should the Examiner have any remaining questions or comments, the undersigned would request a telephone call to possibly expedite this case.

Applicant: Harms
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Respectfully submitted,



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